

PRIVY COUNCIL APPEAL**PUBLIC PROSECUTOR v. OH KENG SENG**

[Federal Court Criminal Appeal No. 36 of 1976]

The petition of the respondent to His Majesty the Yang di-Pertuan Agong for special leave to appeal in the above matter ([1977] 2 M.L.J. 207) was dismissed by the Privy Council on February 9, 1978.

*Petition dismissed.***PRIVY COUNCIL REPORTS****CHAN CHOW WANG v.
LAW SOCIETY OF SINGAPORE**

[Privy Council (Lord Diplock, Lord Russell of Killowen and Lord Scarman) May 3 and 23, 1978]

[Privy Council Appeal No. 17 of 1976]

Legal Profession — Advocates and Solicitors — Disciplinary proceedings — Complaint received by Inquiry Committee — Action taken on complaint — Complainant subsequently requested to make statutory declaration — Argument that complaint should be supported by statutory declaration — Copy of statutory declaration not given to advocate and solicitor — Legal Profession Act (Cap. 217), s. 86(3), 87.

This was an appeal from the judgment of the High Court, Singapore ([1975] 1 M.L.J. 59) which ordered the appellant to be struck off the roll of advocates and solicitors of the Supreme Court of Singapore. The disciplinary proceedings in the case had started with a complaint addressed by the complainant, Mrs. Seah Huang, to the Law Society of Singapore. This was referred by the Council of the Law Society to an Inquiry Committee appointed under the Legal Profession Act. The Inquiry Committee wrote to the appellant and made further inquiries. The Committee later asked the complainant to make a statutory declaration setting out the facts. No copy of the statutory declaration was sent to the appellant. Subsequently the Inquiry Committee reported to the Council on the complaint and the Council informed the appellant that it had been decided that a full investigation by a Disciplinary Committee should be held. The Disciplinary Committee was appointed by the Chief Justice and after the hearing and investigation the Disciplinary Committee found the appellant guilty of the charges brought against him. The Law Society then applied that the appellant be struck off the Roll or suspended from practice or censured and the High Court ordered that the appellant be struck off the Roll. The appellant appealed to the Privy Council. On the appeal it was contended that section 86(3) of the Legal Profession Act requires that every written complaint should be supported by a statutory declaration or affidavit and that this is a condition precedent to the Inquiry Committee assuming jurisdiction to inquire into and investigate the matter. It was also contended in the alternative that as a statutory declaration was in fact obtained from the complainant the proper inference was that the Inquiry Committee did not begin their inquiry and investigation until this statutory declaration had been received. If so, it was argued it was their duty to provide the appellant with a copy before they embarked on their inquiry. Failure to do so rendered all subsequent proceedings by the Inquiry Committee and the Disciplinary Committee a nullity.

Held, dismissing the appeal: (1) upon its true construction section 86(3) of the Legal Profession Act left to the Inquiry Committee a discretion to decide whether or not a particular written application or complaint should be supported by any statutory declaration or affidavit and if so what statutory declarations or affidavits should be called for and by whom they should be made. If, in their discretion, they did not think any statutory declaration or affidavit to be necessary at that stage they were entitled to begin their inquiry or investigation without it;

A (2) in this case both the Disciplinary Committee and the High Court drew the inference from the facts that the inquiry and investigation were begun by the Inquiry Committee before the statutory declaration was obtained from the complainant. This inference was not unreasonable and the finding of the High Court on this point should be accepted;

B (3) the argument which was brought before the High Court but not persisted in at the appeal, that the failure to provide the appellant with a copy of the statutory declaration was contrary to the rules of natural justice, was devoid of substance. The appellant had in fact ample notice of what was alleged against him before the Inquiry Committee started their investigation.

Case referred to:-

(1) *Ratnam v. Law Society of Singapore* [1976] 1 M.L.J. 195.

C PRIVY COUNCIL APPEAL FROM SINGAPORE.*John Newey Q.C. and Ian Glick for the appellant.**Robert Gatehouse Q.C. and Nicholas Lyell for the respondent.*

Lord Diplock (delivering the judgment of the Board): This is an appeal from an Order of the High Court of November 22, 1974 which ordered that the appellant, Mr. Chan, be struck off the Roll of Advocates and Solicitors of the Supreme Court of Singapore. The proceedings which culminated in the Order arose out of his conduct in connection with professional work which he had undertaken in 1972 as solicitor for Mrs. Seah Huay ("the complainant") who was acting as next friend for her son who was then under age. He had sustained an accident in the course of his employment and wanted to claim damages from his employers. Mr. Chan issued a writ on his behalf in the High Court. The action was ultimately settled upon payment by the employers' insurers to Mr. Chan of a sum of \$5,000, including costs.

F Arising out of his conduct in connection with these proceedings and the settlement, which is set out in detail in the judgment of the High Court and is the subject of concurrent findings of fact by that court and the Disciplinary Committee which heard and investigated the matter, Mr. Chan was charged with having been guilty (1) of grossly improper conduct in entering into an agreement with the complainant to accept as his fee 10% of any damages recovered in the event of success; (2) with fraudulent conduct in representing that the insurers had paid the sum of \$3,300 by way of damages; and (3) of fraudulent conduct in deducting from the amount paid to him by the insurers the sum of \$1,000 for his costs without disclosing it to the complainant.

The disciplinary proceedings which culminated in the Order striking Mr. Chan off the Roll started with a written complaint addressed by the complainant to the Law Society of Singapore in a letter of November 3, 1972. This was referred by the Council under section 86(1) of the Legal Profession Act (Cap. 217) to an Inquiry Committee appointed under section 85(1). The duty of the Inquiry Committee on receipt of such complaint is set out in section 87 of the Act, the provisions of which, so far as relevant for the purposes of the present appeal, are as follows:—

"87.—(1) Where the Inquiry Committee has—
(a) received a written order;